

ORDINANCE NO. _____

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF UP TO \$1,329,000 OF
GENERAL OBLIGATION BONDS OF SUSSEX COUNTY IN CONNECTION WITH
INCREASED COSTS ASSOCIATED WITH THE MULBERRY KNOLL SEWER
DISTRICT PROJECT AND AUTHORIZING ALL NECESSARY ACTIONS IN
CONNECTION THEREWITH**

WHEREAS, pursuant to Title 9, Delaware Code, Section 7001(a) Sussex County (the “County”) has “all powers which, under the Constitution of the State, it would be competent for the General Assembly to grant by specific enumeration, and which are not denied by statute” (the “Home Rule Power”);

WHEREAS, acting pursuant to its Home Rule Power, and pursuant to Title 9, Delaware Code, Chapters 65 and 67, the County has authorized the design, construction and equipping of the Mulberry Knoll Sewer District Project, which will finance a portion the increased cost of a gravity collection system, sub-regional pump station, and force main to serve 63 Equivalent Dwelling Units in the area south of Route 24, along Mulberry Knoll Road, an area which is a peninsula in the Rehoboth Bay, with the wastewater being pumped to the County’s Inland Bays Regional Wastewater Facility for treatment and disposal, an area which has been created and is now a part of the Sussex County Unified Sanitary Sewer District (collectively, the “Project”);

WHEREAS, pursuant to Title 9, Delaware Code, Section 6706, the County is authorized to issue its bonds and to pledge its full faith and credit thereto, to finance the cost of any object, program or purpose for which the County is authorized to raise, appropriate or expend money under Chapter 67 of Title 9;

WHEREAS, pursuant to Ordinance No. 2672 adopted on August 13, 2019, the County authorized the issuance of its General Obligation Bonds in the maximum principal amount of up to \$3,135,379 for the Project;

WHEREAS, the County previously issued its General Obligation Bond (Mulberry Knoll Sewer District Project) Series 2019C-SRF in the maximum aggregate principal amount of up to \$3,135,379 (the “2019C Bond”) on September 26, 2019 to secure a loan from the Delaware Water Pollution Control Revolving Fund (acting by and through the Delaware Department of Natural Resources & Environmental Control) (“DNREC”) to fund the Project;

WHEREAS, the County requires additional funding due to increased construction costs of the Project and desires to accept a supplemental loan in the amount of \$1,329,000 from DNREC to fund the increased construction costs of the Project; and

WHEREAS, acting pursuant to the aforesaid authority, the County desires to authorize the issuance of general obligations of the County to finance the increased construction costs of the Project and for the other purposes described herein.

NOW THEREFORE THE COUNTY OF SUSSEX HEREBY ORDAINS (AT LEAST FOUR FIFTHS OF THE MEMBERS OF COUNCIL CONCURRING HEREIN):

Section 1. Amount and Purpose of the Bonds. Acting pursuant to Title 9, Delaware Code, Chapters 65 and 67, Sussex County shall issue its negotiable general obligations in the maximum aggregate principal amount not to exceed \$1,329,000 (the "Bonds") to finance or reimburse the County for a portion of the increased cost of the design, construction, and equipping of the Project, with the expectation that up to \$1,329,000 of principal forgiveness will be applied to the Bonds, resulting in a total forgiveness of \$3,270,000 with respect to the 2019C Bonds and the Bonds, to reduce the combined principal amount of the 2019C Bond and the Bonds outstanding to \$1,194,379 upon Project completion.

The monies raised from the sale of the Bonds (including the investment earnings thereon) after the payment of the costs of issuance, shall be held in one or more Project accounts and shall be expended only for the purposes authorized herein or as may otherwise be authorized by subsequent action by County Council. Authorized purposes include the cost of funding of the construction budget shortfall, additional engineering services associated with the extended construction period and a 15% contingency on the collection system.

Section 2. Security for the Bonds. The principal, interest and premium, if any, on the Bonds may be paid by ad valorem taxes on all real property subject to taxation by the County without limitation as to rate or amount, except as limited by Title 9, Delaware Code Section 8002 (c). Pursuant to Title 9, Delaware Code, Section 6706, the full faith and credit of the County is pledged to such payment. The Bonds shall contain a recital that they are issued pursuant to Title 9, Delaware Code, Chapter 67, which recital shall be conclusive evidence of their validity and of the regularity of their issuance. While the Bonds are backed by the County's full faith and credit, it is expected that the debt service will be paid from revenues of the Mulberry Knoll Sewer District.

Section 3. Terms of the Bonds. The Bonds shall be sold at such prices and upon such other terms and conditions consistent with the provisions of this Ordinance and otherwise as the County Administrator shall determine to be in the best interests of the County. The Bonds shall bear interest at such rate or rates and shall mature in such amounts and at such times, but not exceeding thirty (30) years from the date of completion of the Project, and shall be subject to redemption, as the County Administrator shall determine.

Section 4. Sale of the Bonds. The Bonds may be issued in one or more series and shall be sold in one or more public sales or private negotiated transactions upon such terms and conditions as the County Administrator shall determine shall be in the best interest of the County. It is anticipated that the Bonds will be sold to the State of Delaware Water Pollution Control Revolving Fund (acting by and through DNREC) (or any successor agency).

Section 5. Details of the Bonds. The County Administrator is authorized to determine the details of the Bonds including the following: the date or dates of the Bonds; provisions for either serial or term bonds; sinking fund or other reserve fund requirements; due dates of the interest thereon; the form of the Bonds; the denominations and designations of the Bonds; registration, conversion and transfer provisions; provisions for the receipt, deposit and investment of the proceeds of the Bonds; provisions for the replacement of lost, stolen, mutilated or destroyed Bonds; and provisions for issuing uncertificated obligations and all procedures appropriate for the establishment of a system of issuing uncertificated debt. The Bonds shall be

executed by the manual or facsimile signature of the County Administrator, shall contain an impression of the County seal or a facsimile thereof and shall be attested by the manual signature of the County Clerk. The County Administrator shall determine the form of the Bonds.

Section 6. Debt Limit. It is hereby determined and certified, as of the effective date hereof, that the issuance of the Bonds is within the legal debt limit of the County.

Section 7. Further Action. The President of the County Council, the County Administrator, the Finance Director and the County Clerk are authorized and directed to take such other action on behalf of the County, as may be necessary or desirable to effect the adoption of this Ordinance and the issuance and sale of the Bonds and to provide for their security and to carry out the intent of this Ordinance, including the publication of notices and advertisements and the execution and delivery of customary closing certificates.

Section 8. Effective Date. This Ordinance shall become effective immediately upon its passage.

The County Clerk is hereby directed to publish a notice of the adoption hereof in accordance with Section 7002(m)(2) of Title 9 of the Delaware Code, as amended.

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ADOPTED this _____ day of April, 2022.

SUSSEX COUNTY, DELAWARE

Attest:

Clerk
Sussex County Council

President
Sussex County Council

[SEAL]

SYNOPSIS: This Ordinance provides for the issuance of up to \$1,329,000 of Sussex County General Obligation Bonds in order to finance or reimburse the County for a portion of the increased cost of the design, construction, and equipping of a gravity collection system, sub-regional pump station, and force main to serve 63 Equivalent Dwelling Units in the area south of Route 24, along Mulberry Knoll Road, an area which is a peninsula in the Rehoboth Bay, with the wastewater being pumped to the County's Inland Bays Regional Wastewater Facility for treatment and disposal, an area which has been created and is now a part of the Sussex County Unified Sanitary Sewer District (collectively, the "Project"), with the expectation that up to \$1,329,000 of principal forgiveness will be applied to the Bonds, resulting in a total forgiveness of \$3,270,000 with respect to the 2019C Bonds and the Bonds, to reduce the combined principal amount of the 2019C Bond and the Bonds outstanding to \$1,194,379 upon Project completion.